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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/580,305	05/26/2000	Anthony A. Shah-Nazaroff	116538-153394	9133
31817 7590 02/20/2008 SCHWABE, WILLIAMSON & WYATT, P.C. PACWEST CENTER, SUITE 1900 1211 S.W. FIFTH AVE. PORTLAND, OR 97204			EXAMINER SALCE, JASON P	
			ART UNIT 2623	PAPER NUMBER
			MAIL DATE 02/20/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

09/580,305

**Applicant(s)**

SHAH-NAZAROFF ET AL.

**Examiner**

Jason P. Salce

**Art Unit**

2623

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6, 8-16, 18-20, 25 and 26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-16, 18-20, 25 and 26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

A request for continued examination under 37 CFR 1.114 was filed in this application after appeal to the Board of Patent Appeals and Interferences, but prior to a decision on the appeal. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 12/14/2007 has been entered.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 8-16, 18-20 and 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barker (U.S. Patent No. 6,141,682) in view of Candelore (U.S. Patent No. 6,057,872).

Referring to claim 1, Barker discloses receiving, by a server system (**see communication controller 76 for receiving requests in Figure 2**), a request to receive an upgraded media feature for a programming transmission from a client system via a first communication media (**see again Figure 2 for the server/communication controller 76 receiving requests from client device(s) 50**

over a first communication media/PSTN 68 and further note Column 6, Lines 26-44 for requesting internet access, broadcast data and video data, all of which are upgraded media features). *The examiner further notes that communication controller 76, receiver 84 and channel combiner 88 in Figure 2 can all be interpreted as a server.*

Barker also discloses automatically coordinating retrieval, by the server system, of the upgraded media feature for the programming transmission with one of the plurality of programming transmission sources via a second communication media (see Figure 2 and Column 6, Lines 48-65 for retrieving the requested upgraded media features from either information service providers 52A-52N or interactive service providers 54A-54N), the first communication media different than the second communication media (see Figure 2 for both service providers transmitting the retrieved information over a telecommunications networks 58 and 62 different from the PSTN 68).

Barker also discloses automatically coordinating provision, by the server system, of the upgraded media feature for the programming transmission, the programming and the upgraded media feature to be provided from the one programming transmission source to the client system via a third communication media (see Figure 2 and Column 6, Line 66 through Column 7, Line 17 for provisioning the cable distribution hubs 92A-92N to transmit programming transmissions and upgraded media features to the client device), the third communication media different than the first and second

communication media (**see Figure 2 for the third communication media being a cable distribution system**).

Barker fails to teach that the upgraded media features are purchased by the client.

Rothblatt discloses a backhaul system similar to Barker that receives requests from a client device for supplemental data, wherein the supplemental data is distributed over a high speed communication network to the client device (**see Figure 1 and Column 16, lines 33-46**). Rothblatt further discloses that the client device can purchase and be billed for the Internet usage (**see Column 16, Lines 46-48**).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify server, as taught by Barker, to include the accounting functionality, as taught by Rothblatt, for the purpose of providing a low-cost user terminal that allows user to receive satellite-based direct radio broadcast data (e.g. large geographic coverage, good sound quality, high outbound data rates and low cost), as well as bi-directional communication for global, portable Internet/WWW access capability (**see Column 1, Lines 61-67 of Rothblatt**) and also allow the system of Barker to generate revenue for the requested supplemental data.

Referring to claim 2, Barker also discloses receiving the selection from an entertainment system (**see the entertainment system 50 in Figure 2**), and the programming transmission is provided to the entertainment system with the upgraded

feature via the third communication media (**see again the rejection of claim 1 and further note Figure 4B and Column 9, Lines 23-53**).

Referring to claim 3, Rothblatt discloses billing, by the server system, the client system for services performed by the server system (**see the rejection of claim 1**).

Barker and Rothblatt fail to disclose providing the billing information associated with the client system to the programming transmission source that provided the programming transmission.

The examiner takes Official Notice to the fact that programming transmission sources are well known in the art to receive additional data or services that have been ordered by a client system.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the programming transmission source, as taught by Barker and Rothblatt, to include means for collecting data on what services the client system has ordered, for the purpose of allowing a programming transmission source to customize commercials or television programs to further target the preferences of a viewer.

Referring to claim 4, Rothblatt discloses that the billing is performed according to a billing cycle for transactions during the billing cycle (**see Column 16, Lines 46-48 for billing a customer according to a monthly billing cycle**).

Referring to claim 5, see the rejection of claims 1 and 4.

Referring to claim 6, see the rejection of claim 4.

Referring to claim 8, see the rejection of claim 1.

Referring to claim 9, see the rejection of claims 1 and 4.

Referring to claim 10, see the rejection of claims 1 and 4.

Referring to claim 11, Barker discloses that the programming transmission is an audio production (**see Column 1, Lines 23-28**).

Referring to claim 12, Barker discloses that the upgraded media feature is a video upgrade (**see Figure 4B for creating a composite signal including the interactive data and video program, therefore since the interactive data is included with the video program, the composite signal is therefore a video upgrade**).

Referring to claim 13, Barker discloses that a transmission source is a cable television source (**see cable television hub 92A in Figure 2**).

Referring to claim 14, see the rejection of claim 1.

Referring to claim 15, see the rejection of claim 3.

Referring to claim 16, see the rejection of claim 5.

Referring to claim 18, see the rejection of claim 1.

Referring to claims 19-20, see the rejection of claims 9-10, respectively.

Referring to claims 25-26, see the rejection of claim 1.

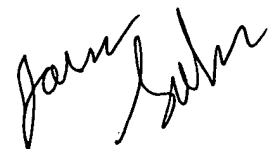
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (571) 272-7301. The examiner can normally be reached on M-F 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jason P Salce  
Primary Examiner  
Art Unit 2623



February 6, 2008

JASON SALCE  
PRIMARY PATENT EXAMINER